



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
WESTERN REGIONAL OFFICE

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DEVAL L. PATRICK
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Lieutenant Governor

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Secretary

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Commissioner

NVF Company
1250 East Hallandale Beach Blvd. #300
Hallandale Beach, Florida 33009
Attention: Blanche Launer, Registered Agent

MAR 9 2009

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NVF Company
1166 Yorklyn Road
Yorklyn, DE 19736
Attention: Frank Romanelli, Manager

RE: Holyoke-DSWM-09-137-026
MADEP Solid Waste Permitting
Beneficial Use Determination (BUD)
Brick & Concrete Rubble as Fill
Final Permit Approval
Parsons Paper Mill Property
84 Sargeant St., Holyoke
BWPSW41
Transmittal #X225485

BUD Permit - Final Permit Approval

Dear Ms. Launer/Mr. Romanelli:

On February 6, 2009, the Massachusetts Department of Environmental Protection (the MassDEP or the Department), Solid Waste Section, issued a Provisional Beneficial Use Determination ("BUD") permit approval to utilize brick and concrete rubble as fill at the former Parsons Paper Mill at 84 Sargeant Street in Holyoke, MA. The BUD permit application was prepared on behalf of the property owner, NVF Company (NVF) by their consultant, Tighe & Bond Engineers (T&B) of Westfield, MA. The BUD application was prepared by Marc J. Richards of T&B. The BUD application was signed by Frank Romanelli, Manager of NVF. As required at 310 CMR 19.060(5), a copy of the BUD application was also provided by T&B to the Holyoke Health Department on November 24, 2008.

The proposal to utilize the brick and concrete rubble as fill at the site was submitted to MassDEP as a Category 3 – Restricted Use BUD application, according to the regulations at 310 CMR 19.060(16) and the

MassDEP's Draft Interim Guidance Document for Beneficial Use Determination Regulation ("the Draft BUD Guidance"), dated March 18, 2004. The Provisional BUD permit approval was issued to solicit public comment, and two comment letters were received during the 21-day comment period.

On February 25, 2009 MassDEP received a comment letter from T&B, on behalf of NVF. T&B made the following comments

- T&B states that the MassDEP-referenced permit transmittal number is incorrect;
- T&B asserts that the National Emission Standards for Hazardous Air Pollutants (NESHAPS) and the MassDEP's asbestos regulations at 310 CMR 7.15 do not apply to the asbestos-containing waste material in the burned and collapsed rubble at the property;
- T&B asserts that the site could be assessed and remediated according to the MassDEP's Bureau of Waste Site Cleanup (BWSC) regulations contained in the Massachusetts Contingency Plan (the MCP) at 310 CMR 40.0000; and
- T&B describes other sites in Massachusetts where T&B claims that asbestos or asbestos wastes were allowed to remain in place.

On February 26, 2009 MassDEP received a comment letter from the City of Holyoke (the City). The City comments that all asbestos-contaminated rubble should be removed and disposed before crushing of the non-asbestos contaminated rubble is begun.

Response/Modification to Permit

As part of its BUD permit application, T&B submitted the Permit Transmittal Form with transmittal #X225485, and T&B used a different (incorrect) transmittal #X225340 on the Permit Application Form. MassDEP correctly has used the transmittal #X225485 from the actual transmittal form. NVF must submit additional release notifications to MassDEP according to the MCP at any time required by 310 CMR 40.0000.

Upon review of the comments received, MassDEP has modified Condition 3 of the permit, to specify that all demolition and crushing of the standing portion of the mill be kept separate from the burned/collapsed rubble portion, to avoid contamination from (and disturbance of) the asbestos-containing waste material in the burned and collapsed rubble at the property. MassDEP has not otherwise modified the permit.

The following "Proposed BUD Permit Application" summary section is identical to that issued in the Provisional Permit.

Proposed BUD Permit Application

The Parsons Paper Mill ceased operations in 2005 and suffered a significant fire in 2008, which severely damaged approximately one half of the mill. The rubble from the burned and collapsed portion of the mill, estimated to be a volume of approximately 5,000 cubic yards, currently exists in piles at the northern portion of the property, filling portions of the building foundation there. This burned rubble contains primarily brick rubble, with some amounts of other solid wastes, including wood and metal. The rubble from the fire is an asbestos-containing waste material according to MassDEP regulations at 310 CMR 7.00, based on positive asbestos tests of the rubble (demolition debris) and other materials within the mill, which were commingled with the brick rubble during the fire. Sources of asbestos present in the mill (before and after the fire) include asphalt shingles, window glazing/caulking, tank and pipe insulation, transite siding, cements/mastics, and floor tiles, and asbestos sampling of these materials has shown these materials to be

asbestos-containing material (ACM), with asbestos levels over 1% asbestos. NVF proposes to remove visible, friable asbestos and solid wastes (wood, metal, etc.) from the rubble, utilizing asbestos air monitoring and management practices, and then to leave the asbestos-contaminated brick rubble in place as fill material within the northern portion of the building foundation, along Sargeant Street. T&B states that removal of all of the asbestos-contaminated rubble for proper off-site disposal would cost approximately \$1,230,000 versus a cost of approximately \$168,000 to leave the material on-site as fill. **As outlined in Condition 3 of this permit, MassDEP does not approve NVF's proposal to use any asbestos-containing waste material (as defined at 310 CMR 7.00 and 40 CFR 61.141 here and throughout this permit) as fill anywhere on this property.**

NVF also proposes in the BUD application to utilize approximately 13,000 cubic yards of brick and concrete rubble, not contaminated by asbestos, as fill for the remaining foundation holes and central portion of the property. NVF states that they will perform asbestos removal on the remaining standing portions of the mill, in accordance with MassDEP regulations. Once asbestos removal is complete, NVF proposes to demolish and crush the standing brick and concrete portions of the mill, much of which are coated (painted). Portions of the standing mill concrete floors are also stained with some amounts of petroleum hydrocarbons, reportedly from hydraulic oil leaks during historic mill operations.

In October of 2008, T&B performed the following sampling and analysis of the materials of the standing portion of the mill, proposed to be crushed and used on-site as fill:

- Two samples of painted brick (paint and brick analyzed together as a mass-balance sample), analyzed for RCRA 8 (heavy) metals;
- One sample of unpainted, clean brick, analyzed for RCRA 8 metals;
- One sample of paint chips (paint only) from painted bricks, analyzed for RCRA 8 metals; and
- Three samples of oil staining (sludge) from the mill floors, analyzed for polychlorinated biphenyls (PCBs) by EPA Method 8082.

The S-1/GW-3 BUD standards outlined in the Draft BUD Guidance were considered during MassDEP's review of the BUD application, except in the case of lead, where MassDEP considered the BWSC Reportable Concentration S-1 (RCS-1) standard of 300 milligrams/kilogram (mg/kg). These standards are only relevant to the mass-balance (brick and paint combined) samples, not to the paint chip samples. The results of the analyses of the samples showed the following:

- The painted brick samples were non-detectable (ND) for arsenic, cadmium, selenium, silver, and mercury. The painted brick samples contained detectable levels of barium up to 28 milligrams/kilogram (mg/kg, or parts-per-million) vs. the S-1/GW-3 BUD standard of 1,000 mg/kg, detectable levels of chromium up to 7.6 mg/kg vs. the S-1/GW-3 BUD standard of 11 mg/kg, and detectable levels of lead up to 8.8 mg/kg vs. the RCS-1 standard of 300 mg/kg (the S-1/GW-3 BUD lead standard for comparison purposes only is 19 mg/kg);
- The unpainted brick sample was ND for arsenic, cadmium, selenium, silver, and mercury. The unpainted brick sample contained barium at 19 mg/kg vs. the S-1/GW-3 BUD standard of 1,000 mg/kg, chromium at 5.9 mg/kg vs. the S-1/GW-3 BUD standard of 11 mg/kg, and lead at 1.4 mg/kg vs. the RCS-1 standard of 300 mg/kg;
- The paint chip sample was ND for selenium and silver, and contained arsenic at 1.5 mg/kg, barium at 190 mg/kg, cadmium at 0.61 mg/kg, chromium at 3.1 mg/kg, lead at 15,000 mg/kg, and mercury at 0.34 mg/kg;
- All three oil staining (sludge) samples were ND for PCBs.

T&B states that, based on the analytical data, use of the painted brick/concrete rubble will meet the MassDEP's BUD Guidance and associated criteria.

In June of 2006, a total of 3,735 gallons and 15,490 pounds of oil or hazardous materials (OHM) were removed from the mill buildings and site by NVF, as required by MassDEP, and properly disposed or recycled off-site. The BUD application contained an inventory of all OHM which is still present within the standing portion of the mill, the inventory was completed by T&B in October of 2008. The inventory includes oils in tanks and pistons, propane in cylinders, refrigerants in refrigeration units, mercury in fluorescent light bulbs, PCBs in transformers and light ballasts, and other, limited amounts of hazardous wastes or hazardous materials in limited amounts of drums, bags or 5-gallon pails. T&B states that all of the OHM shown on the inventory will be removed for proper, off-site disposal prior to demolition. T&B states that any recoverable oil residues from oil staining on building floors will be cleaned and removed prior to demolition.

Following removal of all ACM and OHM from the standing portion of the mill, it will be demolished, and metal, wood, plastics and other solid wastes will be removed from the rubble. The remaining brick and concrete rubble (both painted and unpainted) will be crushed to produce a 6-inch diameter minus size fill material. T&B proposes to sample the crushed rubble for RCRA 8 metals every 1,000 cubic yards of material. During demolition, crushing and filling operations, dust will be controlled with water sprays, and water runoff from the rubble piles will be controlled by haybales. The five tailraces which run through the site will be filled with clean, off-site soil, up to the elevation of the basement floor. Following this work, the basement slabs will be cracked in place to promote proper drainage of surface water, and geotextile filter fabric will be placed over the basement limits. The crushed brick/concrete rubble will then be placed as backfill in the foundations. A one-foot thick layer of clean, off-site gravel will then be placed over the crushed rubble. NVF will establish a Deed Restriction for the area where any painted brick/concrete rubble will be used as fill (the BUD Area), in accordance with MassDEP regulations, which will prohibit any disturbance or reuse of the BUD Area without prior written MassDEP approval.

MassDEP received a comment letter from the City of Holyoke on December 15, 2008 regarding the BUD application, and a subsequent comment letter from T&B responding to the City's letter, dated January 5, 2009.

The City's comment letter is summarized below:

- The City requests that the BUD application be denied for a number of reasons, or in lieu of denial, that significant conditions be imposed on the BUD;
- The City opposes the use of any asbestos-contaminated fill material at the site, due to health and safety concerns and concerns about significant restrictions on future reuse of the property;
- The City opposes the use of the painted brick/concrete rubble fill material at the site, due to environmental concerns and concerns about restrictions on reuse of the property, including concerns that the site is within an Environmental Justice Area;
- The City is concerned about the proper removal of OHM from the mill prior to the fire and in the remaining portion of the mill;
- The City is concerned about potential impacts to the canals from heavy metals in the fill material, particularly from the tailrace fill areas;
- The City states that NVF should seek comments from the Natural Heritage and Endangered Species Program as the canal system is mapped as Priority Habitat and Estimated Habitat of Rare Wetlands Wildlife by NHESP;
- The City states that, pursuant to City ordinances, a minimum of 4 inches of topsoil must be placed over the one-foot "cap" layer of gravel to ensure adequate vegetative cover;
- The City states that a perimeter fence should be erected around the entire site; and
- The City states that, if the BUD is approved, that NVF be required to post a bond or other Financial

Assurance Mechanism (FAM) to ensure compliance and to avoid unforeseen future damages to the City.

The T&B response letter is summarized below:

- T&B states that the rubble is an effective substitute for clean fill;
- T&B notes the June 2006 removal of 3,735 gallons and 15,490 pounds of OHM from the mill buildings and site;
- T&B states that the tailraces will only be filled with clean gravel, will be capped at each end with concrete barriers, that all tailrace work will proceed only under the Notice-of-Intent (NOI) wetland permitting process with the City, and that contaminants will not migrate in any significant amounts into the tailraces or the canals;
- T&B states that NHESP issues will be addressed as part of the NOI permitting process;
- T&B states that nuisance dust conditions will be mitigated or eliminated by water sprays and work practices;
- T&B states that NVF will comply with the City's requirement for the placement and seeding of 4 inches of topsoil over the one-foot gravel 'cap' layer;
- T&B states that the entire site perimeter will be fenced, including the installation of new fencing where needed following building demolition;
- T&B states that reuse of the property will not be significantly restricted by the proposed BUD fill materials; and
- T&B states that, alternatively, NVF may pursue site closure under a Licensed Site Professional oversight according to MassDEP's Bureau of Waste Site Cleanup regulations at 310 CMR 40.0000.

MASSDEP DETERMINATIONS – FINAL BUD PERMIT

The MassDEP has reviewed the proposed BUD application to reuse brick and concrete rubble as fill at the Parsons Paper Mill property in accordance with Massachusetts General Laws Chapter 111, Section 150A, the Massachusetts Solid Waste Regulations 310 CMR 16.00 & 19.000, MassDEP's Draft Interim Guidance Document for Beneficial Use Determination Regulation ("the Draft BUD Guidance"), dated March 18, 2004, and other statutes and regulations as specified.

The MassDEP hereby issues this Final BUD permit, which approves in part and does not approve in part the BUD application, subject to the following conditions and requirements which are enforceable pursuant to 310 CMR 19.043:

1. The MassDEP has determined that the requirement at 310 CMR 19.060(3), i.e. that the MassDEP shall accept comments from the City of Holyoke Board of Health (the City) regarding the BUD permit application for a period of at least 21 days from the date that the application was submitted to the City, has been fulfilled. NVF submitted a copy of the application to the City on November 24, 2008, and the MassDEP received comments on the application from the City on December 15, 2008.
2. **Portion of BUD Application Not Approved:** The MassDEP does not approve the portion of the BUD application that requests approval to use, as fill on-site, brick and concrete rubble contaminated by asbestos. **MassDEP does not approve the proposal to**

use any asbestos-containing waste material as fill anywhere on the NVF property.

310 CMR 19.043(5)(a) states "The permittee shall comply at all times with the terms and conditions of the permit or approval, 310 CMR 19.000, M.G.L. c. 111, Sec. 150 A and all other applicable state and federal statutes and regulations". The application does not address how the proposal would comply with applicable National Emissions Standards for Hazardous Air Pollutants (NESHAPS) requirements, or the MassDEP's regulations at 310 CMR 7.15(1)(e)(2), which state "Each owner/operator shall:....3. Dispose of asbestos-containing waste material at an approved sanitary landfill special waste site. If within Massachusetts, such sites must be operated in accordance with 310 CMR 19.000..." (the Parsons Paper Mill property is not an approved sanitary landfill special waste site). For the reasons stated above, MassDEP cannot approve the use of asbestos-containing waste material as fill on the Parsons Paper Mill property at this time.

The proper removal and disposal of the asbestos-containing waste material at the property shall be performed in accordance with all local, state and federal regulations governing asbestos removal, handling, and disposal, including the MassDEP regulations at 310 CMR 7.15. As described previously on page 2 of this permit, MassDEP considers all of the existing rubble on the property to be asbestos-containing waste material.

3. The proposed use of the subject painted brick and concrete rubble (not contaminated by asbestos) as fill on the designated areas of the property at 84 Sargeant Street in Holyoke is approved as a Category 3 - Restricted BUD permit in accordance with MassDEP's regulations at 310 CMR 19.060, as long as the use meets all of the conditions of this BUD permit. The sampling of the painted brick and concrete from the standing portions of the mill indicates that the painted rubble meets the MassDEP's S-1, GW-3 BUD reuse criteria, as contained in the Draft BUD Guidance. MassDEP has determined that the applicable BWSC soil and groundwater classification for the proposed BUD Area is S-1, GW-3. MassDEP has approved similar BUD permits statewide for the use of painted asphalt, brick and concrete (ABC) as fill, in accordance with the Draft BUD Guidance. This permit does not allow the reuse of the subject painted brick and concrete rubble at any other location within the Commonwealth of Massachusetts. The use of unregulated materials (i.e. clean, unpainted brick and concrete rubble, and clean fill) within the BUD area or other areas of the property is not restricted by this permit. All demolition and crushing of the standing portion of the mill shall at all times be kept physically separated from the burned/collapsed rubble portion, to avoid contamination from (and disturbance of) the asbestos-containing waste material in the burned and collapsed rubble at the property.
4. Prior to any demolition or disturbance of any of the standing portions of the mill, all asbestos-containing material (ACM) shall be properly surveyed, removed, handled and disposed from the standing portions of the mill by NVF in accordance with all local, state and federal regulations governing asbestos removal and handling, including the MassDEP regulations at 310 CMR 7.15, and documentation of all such removal of all ACM shall be provided to MassDEP and the Holyoke Health Department prior to any demolition. All standing portions of the mill (including the elevator shaft, in particular) which cannot be surveyed for the presence of asbestos due to structural instability concerns, shall be removed and disposed of properly off-site as asbestos-containing waste material.
5. Prior to any demolition or disturbance of any of the standing portions of the mill, all of the oil or hazardous materials (OHM), hazardous wastes, or other waste materials as outlined

in the "Hazardous Materials Abatement Schedule" inventory contained in Appendix E of the BUD application (and any other OHM, hazardous wastes or other waste materials which may be present in the standing portions of the mill) shall be properly removed, handled and disposed by NVF in accordance with all local, state and federal regulations governing hazardous waste/hazardous materials removal and handling, including 310 CMR 40.0000 and the MassDEP hazardous waste regulations at 310 CMR 30.000. NVF shall utilize a licensed hazardous waste contractor, as applicable, to perform such remediation, and documentation of all such removal of hazardous wastes/hazardous materials shall be provided to MassDEP and the Holyoke Health Department prior to any demolition.

6. Prior to any demolition or disturbance of any of the standing portions of the mill, any recoverable oil sludges/staining on concrete or brick surfaces in standing portions of the mill shall be properly cleaned and removed, handled and disposed by NVF as proposed in the BUD application, in accordance with all local, state and federal regulations governing such removal, including 310 CMR 40.0000 and the MassDEP hazardous waste regulations at 310 CMR 30.000. Documentation of all such removal of oil sludges/staining shall be provided to MassDEP and the Holyoke Health Department prior to any demolition.
7. Solid wastes shall not be used as fill in this BUD. All solid waste and scrap materials (i.e. wood, metal, plastics, etc.) shall be removed from the brick and concrete rubble prior to crushing, and shall be disposed or recycled properly off-site at permitted solid waste disposal or recycling facilities. As proposed, all brick and concrete rubble shall be crushed to less than 6 inches in diameter for use in this BUD. Trucks, crushing equipment, and other heavy equipment shall be washed before leaving the site.
8. All appropriate measures shall be taken during demolition and crushing of the standing portion of the mill to mitigate or eliminate the creation of dusts, in accordance with the regulations at 310 CMR 16.05(3)(e) and 310 CMR 7.00. As outlined at 310 CMR 19.060 (12)(c), "Any proposed processing and beneficial use shall not cause an adverse impact or significant risk to public health, safety or the environment, including, but not limited to, nuisance conditions." Crushing of brick and concrete rubble shall only occur during normal business hours, which shall be Monday through Saturday, 7:00 AM through 5:00 PM.
9. There shall be a minimum 2 foot separation between the base of all painted brick and concrete rubble and the maximum, high groundwater table elevation, including the area of the tailraces. As proposed, only clean gravel imported from offsite shall be used to fill the tailraces at the site.
10. All crushed, painted brick and concrete shall be sampled on a minimum frequency of one composite sample per 500 cubic yards of crushed rubble, and shall be analyzed for RCRA 8 metals, VOCs by EPA Method 8260, and EPH by the MADEP/ORS Method. All crushed, painted rubble used as fill on-site shall meet the S-1, GW-3 BUD reuse standards outlined in the Draft BUD Guidance, except that the reuse standard for lead shall be the RCS-1 standard of 300 mg/kg. The results of such sampling shall be submitted to MassDEP and the Holyoke Health Department as they are received from the laboratory, and prior to use of the rubble as fill. Any crushed rubble which does not meet the S-1, GW-3 BUD reuse standards shall be removed from the site for proper, off-site disposal at a permitted solid

waste disposal facility. MassDEP reserves the right to require USEPA Toxicity Characteristic Leaching Procedure (TCLP) testing of the crushed rubble at any time, particularly if total contaminant levels exceed 20 times the TCLP standards.

11. The following amounts of clean fill material shall be placed over all areas of the site where crushed, painted brick and concrete rubble is used as fill: a minimum 1-foot thick layer of unpainted brick and concrete rubble, overlain by a minimum 1-foot thick layer of clean soil material (imported from off-site), overlain by a minimum 4-inch layer of clean loam (imported from off-site) shall be placed over the gravel layer, and seeded with grass.
12. A six-foot tall chain-link fence shall be installed around the entire perimeter of the site, during and upon completion of the demolition, crushing and filling work.
13. No transfer of this permit shall be permitted except in accordance with the MassDEP's regulations at 310 CMR 19.044.
14. **Deed Notification:** A notification shall be recorded in the registry of deeds or in the registry section of the land court for the district in which the NVF property is located, in accordance with the provisions of MGL c. 111, sec. 150A, 310 CMR 19.000, relative to the BUD permit area. The deed notification shall specifically contain the following:
 - A. Identification of record owners of the property;
 - B. A description of the BUD Fill Area (i.e., the area containing painted brick and concrete rubble as fill) on the property, by metes and bounds and by reference to an appropriate map or plan to be recorded therewith, signed by a Massachusetts-registered professional engineer or land surveyor, depicting:
 - a. the boundaries of the BUD Area;
 - b. the location and identification of all subsurface structures remaining within the BUD Area, including all foundations, slabs, and buried utilities;
 - c. A cross-section depicting the type and extent of the fill material and soil cover in the BUD Fill Area; and
 - d. A description of the nature and duration of post-closure maintenance for the BUD area.
 - C. Reference to the MassDEP file number (Solid Waste File #137-026) for identifying the BUD file; and
 - D. The deed notification shall contain the following statement "The premises described herein are subject to the provisions of MGL c. 111, sec. 150A, 310 CMR 19.000, and a Beneficial Use Determination on file with the Department of Environmental Protection (Solid Waste File #137-026) for the use of painted brick and concrete rubble as fill. Said premises shall not be used for any purpose other than as a closed BUD fill area without prior written approval of the Massachusetts Department of Environmental Protection. Such Department approval of other use is transferable or assignable only upon written approval of the Department."

Within 60 days of completion of the BUD permit fill activity, NVF shall submit to the MassDEP documentation that the deed notification was completed as required above and recorded at the Hampden County Registry of Deeds.

15. Post-closure requirements for the BUD Area are as follows: there shall be no disturbance of

the soil cap layer, excavation of the BUD Area, or any other invasive procedures in the BUD Area (i.e soil borings, well installation, etc.) without prior written approval from the MassDEP. Post-closure maintenance shall be performed for the BUD Area, including maintenance of the soil layer and grass cover. Any erosion of the soil cover layer shall be immediately repaired.

16. NVF is responsible for obtaining (and complying with) any other local, state or federal permits which may be necessary for demolition and remedial activities at the property, including any permits required by the City of Holyoke, MassDEP, NHESP, or the USEPA.
17. The MassDEP reserves the right to modify or rescind this approval at any time, should the conditions of this approval not be met, should nuisance conditions be created, or should the MassDEP otherwise determine that the BUD materials or BUD Area poses a threat to public health, safety or the environment. The MassDEP reserves the right to restrict, modify or rescind this BUD permit approval based on its review of the results of analytical data required in the BUD.
18. The MassDEP and its agents and employees shall have the right to enter upon the site at reasonable times and with reasonable notice, to inspect the BUD Area and to otherwise monitor compliance with this Permit and other MassDEP environmental laws and regulations. This right of entry and inspection shall be in addition to the MassDEP's access authorities and rights under applicable federal and states laws and regulations, as well as any permits or other agreements between the Permittee and the MassDEP.

Right to Appeal: Pursuant to 310 CMR 19.037(5), any person aggrieved by the issuance of this decision, except as provided for under 310 CMR 19.037(4)(b), may file an appeal for judicial review of said decision in accordance with the provisions of M.G.L. c. 111, s. 150A and c.30A not later than thirty [30] days following notice of this decision.

Notice of Appeal: Any aggrieved person intending to appeal the decision to the superior court shall provide notice to the MassDEP of said intention to commence such action. Said Notice of Intention shall include the MassDEP File Number (09-137-026) and shall identify with particularity the issues and reason(s) why it is believed the approval decision was not proper. Such notice shall be provided to the Office of General Counsel of the MassDEP and the Regional Director for the regional office that made the decision.

The appropriate addresses to which to send such notices are:

General Counsel
Department of Environmental Protection
One Winter Street
Boston, 02108

&

Regional Director
Department of Environmental Protection
436 Dwight Street - 5th Floor
Springfield, MA 01103

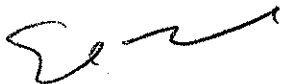
No allegation shall be made in any judicial appeal of this decision unless the matter complained of was raised at the appropriate point in the administrative review procedures established in those regulations, provided that matter may be raised upon a showing that it is material and that it was not reasonably possible with due diligence to have been raised during such procedures or that matter sought to be raised is of critical importance to the public health or environmental impact of the permitted activity.

This Determination pertains only to the solid waste management aspect of the proposal and does not negate the responsibility of the owners or operators to comply with any other applicable state, local, or federal laws or regulations now or in the future.

The MassDEP has determined that the filing of an Environmental Notification Form ("ENF") with the Secretary of Environmental Affairs, for solid waste management purposes, was not required prior to this action by the MassDEP. Notwithstanding this determination, the Massachusetts Environmental Policy Act and Regulation 301 CMR 11.00, Section 11.04 provide certain "Fail-Safe Provisions" which allow the Secretary to require the filing of an ENF and/or Environmental Impact Report at a later time.

If you have any questions concerning this matter, please contact Larry Hanson of this office, at #413-755-2287, or the undersigned at #413-755-2212.

Sincerely,



Daniel Hall
Section Chief, Solid Waste

DH/lh

Cc: DEP/WERO – Steven Ellis, Michael Gorski, Loretta Oi, Robert Shultz, Eva Tor, Jane Rothchild, Esq.
City of Holyoke – Mayor Michael J. Sullivan, Health Director Daniel Bresnahan, Assistant City Solicitor Kara Cunha, Esq., Conservation Commission Agent Alicia Zoeller
Tighe & Bond – Marc Richards
NVF Company – Brenda Nestor, President
NVF Company – Blanche Launer, Registered Agent, c/o The Prentice Hall Corp. System, 84 State St., Boston, MA